

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: CORRECTION TO 199 IAC 9.3(1), LAND RESTORATION RULES | DOCKET NO. RMU-01-5 |
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ORDER ADOPTING AMENDMENT

(Issued July 16, 2001)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 479.29, and 479B.20 (2001), the Utilities Board (Board) on May 22, 2001, issued an order in Docket No. RMU-01-5, In re: Correction to 199 IAC 9.3(1), Land Restoration Rules, "Order Commencing Rule Making," to consider an amendment to 199 IAC 9.3(1). The "Notice of Intended Action" was published in IAB Vol. XXIII, No.25 (6/13/01) p. 1923, as ARC 0725B. The proposed amendment corrected a typographical error that occurred in the adoption of 199 IAC chapter 9, "Restoration of Agricultural Lands During And After Pipeline Construction."

The "Adopted and Filed" notice which is attached to this order and incorporated herein by reference contains an explanation of the procedural history of the current rule making, a discussion of the comments, and the modifications to the rule making made and adopted by the Board.

IT IS THEREFORE ORDERED:

1. A rule making identified as Docket No. RMU-01-5 is adopted.
2. The Acting Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper _____
Acting Executive Secretary

Dated at Des Moines, Iowa, this 16th day of July, 2001.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20 (2001), the Utilities Board (Board) gives notice that on July 16, 2001, the Board issued an order in Docket No. RMU-01-5, In re: Correction to 199 IAC 9.3(1), Land Restoration Rules, Order Adopting Amendment. The amendment to 199 IAC 9.3(1) corrects a typographical error that occurred in the adoption of 199 IAC Chapter 9, "Restoration of Agricultural Lands During And After Pipeline Construction." The Notice of Intended Action was published in IAB Vol. XXIII, No.25 (6/13/01) p.1923, as ARC 0725B.

On May 22, 2001, the Board issued an order commencing a rule making to correct certain language in 199 IAC 9.3(1). The Board proposed to amend 199 IAC 9.3(1) to correct a typographical error that occurred when the first sentence of the subrule referenced "interstate" natural gas pipelines rather than "intrastate" natural gas pipelines as intended. The correct reference to "intrastate" was set out in the Preamble of the Adopted and Filed notice but the rule when adopted used the term "interstate." This typographical error changes the application of the subrule and does not reflect the statutory support cited in the subrule. Because of the different meanings of the words "intrastate" and "interstate," this rule making is necessary to ensure that the requirements of the subrule are applied correctly.

The Notice of Intended Action was published on June 13, 2001, in the Iowa Administrative Bulletin (IAB) as ARC 0725B. Written comments were to be filed on or before July 3, 2001. The only comments filed were by Consumer Advocate Division of the Department of Justice (Consumer Advocate). In the comments Consumer Advocate states that the sentence corrected should be punctuated as

originally found in the Preamble to the Adopted and Filed notice published in the IAB on February 7, 2001, as ARC 0436B, and the indefinite article "a" should be added to the sentence before "hazardous liquid pipeline." Consumer Advocate proposes that the sentence be corrected to read, "An intrastate natural gas pipeline, or a hazardous liquid pipeline, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B)."

The Board has reviewed the comments filed by Consumer Advocate and finds that the changes are reasonable. Since there are no other comments the Board adopts 199 IAC 9.3(1) as set out below.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20.

The following amendment is adopted.

9.3(1) An ~~interstate~~ intrastate natural gas pipeline, or a hazardous liquid pipeline, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.

July 16, 2001

/s/ Diane Munns

Diane Munns
Board Member